PATENT

# IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

**In re Application of:**

van Gemen et al.

**Serial No.:** 10/006,009

**Filed:** December 4, 2001

**For:** TESTING ENDOSYMBIONT CELLULAR ORGANELLES AND COMPOUNDS IDENTIFIABLE THEREWITH

**Confirmation No.:** 7686

**Examiner:** David Gunter, DVM, PhD

**Group Art Unit:** 1634

**Attorney Docket No.:** 2183-5189US

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## SUPPLEMENTAL RESPONSE TO RESTRICTION REQUIREMENT

Commissioner for Patents
Washington, D.C. 20231

Sir:

Responsive to the Office Communication mailed October 31, 2002, please accept the following Election and Amendment, a petition for a one-month extension of time to respond and the appropriate fee accompany this filing. Applicants note that an earlier Response to Restriction Requirement was filed on December 3, 2002. As discussed with the Examiner in a telephone conversation on December 9, 2002, the election made in that Response was made by mistake and it is requested that it not be entered, but that this Supplemental Response to Restriction Requirement be entered instead and the claims be passed to substantive examination.

**IN THE CLAIMS:**

Please note that ALL CLAIMS currently pending and under consideration in the referenced application are shown below, in clean form, for clarity. As no changes to the remaining claims were made, no marked up version of the amendment is attached.

Please cancel claims 1-16 and 26-46, without prejudice or disclaimer.

17. A method of determining therapeutic activity and/or possible side-effects of a medicament, said method comprising:

introducing a medicament to an organism; and

determining a relative ratio of first nucleic acid and/or gene product thereof of an endosymbiont cellular organelle and a second nucleic acid and/or gene product thereof in a sample obtained from said organism.

18. The method according to claim 17, wherein said introducing comprises introducing said medicament for at least three months.

19. (Previously Amended) The method according to claim 17, wherein said medicament is used for treatment of a chronic disease.

20. (Previously Amended) The method according to claim 17, wherein said introducing a medicament to said organism comprises introducing said medicament to an organism free from side-effects at a first time said medicament is introduced to said organism.

21. (Previously Amended) The method according to claim 17, wherein said therapeutic activity comprises a therapeutic activity against an HIV-related disease and/or a tumor-related disease.

22. (Previously Amended) The method according to claim 17, wherein said medicament comprises a nucleoside and/or nucleotide analogue.

23. The method according to claim 22, wherein said nucleoside and/or nucleotide analogue comprises fludarabine, mercaptopurine, tioguanine, cytarabine, flurouracil, and/or gemcyatbine.

24. (Previously Amended) The method according to claim 17, wherein said medicament comprises AZT, ddI, ddC, d4T, 3TC and/or tenofofir.

25. (Previously Amended) The method according to claim 17, wherein said determining comprises determining said relative ratio prior to said introducing said medicament.

Please add the following new claims:

47. (New) The method according to claim 17, wherein said relative ratio is determined in the same assay.

48. (New) The method according to claim 47, further comprising amplifying said first nucleic acid and/or gene product thereof and said second nucleic acid and/or gene product thereof in the same assay.

49. (New) The method according to claim 47, wherein said relative ratio is determined directly by dividing an amount of said first nucleic acid and/or gene product by an amount of said second nucleic acid and/or gene product.

50. (New) The method according to claim 47, wherein said relative ratio is determined directly by dividing an amount of said second nucleic acid and/or gene product by an amount of said first nucleic acid and/or gene product.

51. (New) The method according to claim 47, wherein said relative ratio is

determined by comparison with a reference curve.

52. (New) The method according to claim 47, wherein said first nucleic acid and/or gene product thereof and said second nucleic acid and/or gene product thereof are obtained from a peripheral blood mononuclear sell and /or fibroblast.

## REMARKS

Claims 1 to 46 are currently pending in the application and subject to a Restriction Requirement. Applicants elect to prosecute Group IV, without traverse, including claims 17-25 as designated in the Communication. Claims 1-16 and 26-46 are canceled, without prejudice, by this amendment as drawn to non-elected groups. Applicants reserve the right to purse these canceled claims in one or more related applications. New claims 47-52, dependent on elected claim 17 are to be added.

Applicants note that a Response to Restriction Requirement was already filed on December 3, 2002. As discussed with the Examiner in a telephone conversation on December 9, 2002, the election made in such Response was mistaken and it is requested that it not be entered, but that this Supplemental Response to Restriction Requirement be entered instead and the claims be passed to substantive examination. Accordingly, applicants respectfully request a prompt action on the merits of claims 17-25 and 47-52. Should the Office determine that additional issues remain which might be resolved by a telephone conference, the Examiner respectfully invited to contact applicants' undersigned attorney.

Respectfully submitted,

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